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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROBERT PONZIO, KARINA)
KLOCZKO, JESSICA IRENE MILLER) Case No. 1:18-cv-12544-JHR-JS
THOMAS HAYES, ALEX ACUNA,)
BRIAN MADSEN, VANESSA M.) ***Document Electronically Filed***
MONTGOMERY, ROBERT MULL)
HADIYA NELTHROPE, and) Motion Date: December 7, 2020
SAMUEL SALGADO, on)
behalf of themselves and all others) **DEFENDANTS DAIMLER AG**
similarly situated,) **AND MERCEDES-BENZ USA,**
Plaintiffs,) **LLC'S NOTICE OF MOTION TO**
v.) **DISMISS THE CLAIMS OF**
MERCEDES-BENZ USA, LLC and) **PLAINTIFFS MILLER,**
DAIMLER AG,) **MONTGOMERY, AND ACUNA**
Defendants.) **AS A SANCTION FOR**
) **SPOLIATION OF EVIDENCE**
) ***Oral Argument Requested***
)

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on December 7, 2020, the undersigned, attorneys for Defendants Mercedes-Benz USA, LLC (“MBUSA”) and Daimler AG (“Daimler”) (collectively, “Defendants”), shall apply to the Honorable Joseph H. Rodriguez, United States District Court Judge, District of New Jersey, in Courtroom 5D of the Mitchell H. Cohen Building & U.S. Courthouse located at 4th & Cooper Streets, Room 1050, Camden, NJ 08101, and seek entry of an Order finding that Plaintiffs Miller, Montgomery, and Acuna (collectively, “Plaintiffs”) engaged in intentional spoliation of relevant evidence.

PLEASE TAKE FURTHER NOTICE that by way of the Motion, Defendants are seeking an Order dismissing Plaintiffs’ claims and entering judgment in Defendants’ favor as a sanction for Plaintiffs’ intentional spoliation of evidence.

PLEASE TAKE FURTHER NOTICE that in support of the Motion, Defendants shall rely on the accompanying Brief in Support of Motion, the concurrently filed Certification and Evidence (Exhibits A-O), Proposed Form of Order, and all other pleadings and memoranda on file in this matter.

PLEASE TAKE FURTHER NOTICE that oral argument is requested for this motion.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that a certificate attesting to the date and manner of service of these moving papers is submitted herewith.

Dated: November 10, 2020

/s/ Thomas J. Sullivan

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Attorneys for Defendants

***MERCEDES-BENZ USA, LLC and
DAIMLER AG***

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of November, 2020, the foregoing was filed and served on counsel of record via the Court's ECF system:

Dated: November 10, 2020

/s/ *Thomas J. Sullivan*

Thomas J. Sullivan